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June 28, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

**Re: REQUEST FOR CONFIDENTIAL TREATMENT; WC
Docket No. 14-58; FCC Form 481 – Carrier Annual Reporting Data
Collection Form (Sections 54.313 and 54.422 Annual Reporting) for
the following high-cost recipients:**

**AT&T Mobility, LLC (SACs 259908, 389015, 399015, 529910,
539010), AT&T Mobility Puerto Rico, Inc. (SAC 639005); New
Cingular Wireless PCS, LLC (SACs 209012, 269905, 279010, 289912,
319026, 409004, 449022, 479006, 619004)**

Pursuant to the Commission's decision in *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55 (FCC 98-184), released Aug. 4, 1998 ("Confidential Information Order") and in accordance with the Freedom of Information Act ("FOIA") and the Commission's Rules related to public information and inspection of records, *e.g.* 47 C.F.R. §§ 0.457 and 0.459, AT&T Services, Inc. ("AT&T"), on behalf of itself and its affiliates AT&T Mobility, LLC; AT&T Mobility Puerto Rico, Inc.; and New Cingular Wireless PCS, LLC (collectively, "AT&T Mobility"), hereby submits this request for confidential treatment of certain information submitted to the Commission in AT&T Mobility's FCC Form 481 filings, made in accordance with 47 C.F.R. § 54.313. This request applies to all Line 100 (Service Quality Improvement Reporting) and Line 200 (Voice Outage Reporting) related attachments submitted herewith to the Commission.

Statement pursuant to 47 C.F.R. § 0.459(b)

(1) Identification of the specific information for which confidential treatment is sought.

Confidential Line 100 and Line 200-related attachments are confidential commercial information under Exemption 4 of the FOIA, 47 U.S.C. § 552(b)(4). Accordingly, pursuant to Commission Rule 0.459(a), AT&T requests that such information not be made routinely available for public inspection. Confidential Line 100-related attachments include detailed information concerning the status of 2015 infrastructure expenditures and improvements by AT&T Mobility in its ETC-designated areas, as well as capital expenditures and operating expense information. These attachments also

include detailed information about projected capital expenditures and operating expenses for calendar years 2016 and/or 2017; and signal coverage maps that illustrate coverage and the locations of cell sites at the beginning of 2015, cell site locations and associated increases in coverage made during calendar year 2015, and projected increases in signal coverage for calendar years 2016 and/or 2017. Confidential Line 200 attachments contain highly sensitive network outage information required by 47 C.F.R. §54.313(a)(2). Commission Rule 54.313(a)(2) was modeled on the outage reporting requirements in 47 C.F.R. Part 4. When it adopted the Part 4 reporting requirements, the Commission found that such data present national security and competitive concerns and should be deemed confidential when filed with the Commission. *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, ¶ 3 (2004) (“This data, though useful for the analysis of past and current outages in order to increase the reliability and security of telecommunications networks in the future, could be used by hostile parties to attack those networks, which are part of our Nation’s critical information infrastructure. The disclosure of outage reporting information to the public could present an unacceptable risk of more effective terrorist activity. We therefore will treat the information that will be provided as confidential.”). The information in Confidential Line 200 attachments are entitled to be treated as confidential for these same reasons.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The information is being provided to the Commission in response to Commission rule 47 C.F.R. § 54.313 and the Commission’s *USF/ICC Transformation Order*, 26 FCC Rcd 17663 (2011).

(4) Explanation of the degree to which the information concerns a service that is subject to competition; and

The information being provided to the Commission concerns the various interstate and intrastate telecommunications services provided by AT&T Mobility in competition with other CMRS and wireline providers. Telecommunications, in particular, mobile telecommunications, is a highly competitive industry, and AT&T’s mobile services are subject to significant competition throughout the country. The presence of such competition and the likelihood of competitive injury threatened by release of the information provided to the Commission by AT&T should compel the Commission to withhold the information from public disclosure. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Frazee v. U.S. Forest Service*, 97 F.3d 367, 371 (9th Cir. 1996); *Gulf & Western Indus. v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

- (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.**
- (5) Explanation of how disclosure of the information could result in substantial competitive harm.**

Exemption 4 requires a federal agency to withhold from public disclosure confidential or privileged commercial and financial information of a person unless there is an overriding public interest requiring disclosure, and the Commission has a longstanding policy of protecting the confidential commercial information of its regulatees under FOIA Exemption 4.

Two lines of cases have evolved for determining whether agency records fall within Exemption 4. Under *Critical Mass*, commercial information that is voluntarily submitted to the Commission must be withheld from public disclosure if such information is not customarily disclosed to the public by the submitter.¹ For materials not subject to *Critical Mass*, *National Parks* establishes a two part test for determining if information qualifies for withholding under Exemption 4.² The first prong asks whether disclosing the information would impair the government's ability to obtain necessary information in the future. The second prong asks whether the competitive position of the person from whom the information was obtained would be impaired or substantially harmed. If the information meets the requirements of either prong, it is exempted from disclosure under Exemption 4. Whether under *Critical Mass* or *National Parks*, the information provided by AT&T falls within Exemption 4.

The information being provided to the Commission in response to the Commission's rules is not customarily released to the public, is maintained on a confidential basis, and is not ordinarily disclosed to parties outside the company. The confidential coverage map is not the same as the ones disclosed to the public. Disclosure of this information would subject AT&T Mobility to substantial competitive harm.

Competitors could use the confidential information to assist in targeting their service offerings and enhancing their competitive positions, to the detriment of the competitive position of AT&T Mobility. See, e.g., *GC Micro Corp. v. Defense Logistics Agency*, 33 F.3d 1109 (9th Cir. 1994).

¹ *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("*Critical Mass*").

² *National Parks & Conservation Assoc. v. Morton*, 498 F.2d 765 D.C. Cir. (1974) ("*National Parks*").

- (6) **Identification of any measures taken by the submitting party to prevent unauthorized disclosure; and**
- (7) **Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.**

This information has been maintained on a confidential basis within AT&T and would not ordinarily be disclosed to parties outside the company. Company practices instruct employees not to disclose such information outside the company and restrict such access to this information pursuant to a nondisclosure agreement.

- (8) **Justification of the period during which the submitting party asserts that material should not be available for public disclosure.**

The material must be kept confidential for an indefinite period. Confidential treatment must be afforded this information as long as it would provide a basis for AT&T Mobility's competitors to gain insight into its business operations. AT&T cannot determine at this time any date on which the information would become "stale" for such a purpose.

Conclusion

For all the foregoing reasons AT&T requests that the Commission withhold from public disclosure pursuant to section 0.459 of the Commission's Rules the proprietary commercial information contained in Confidential Line 100 and Line 200-related attachments. If the Commission is unable for any reason to keep this information confidential, AT&T respectfully requests that the Commission return the information to AT&T pursuant to section 0.459(e) of the Rules.

Sincerely,

/s/ Cathy Carpino
Cathy Carpino

Attachments